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MAY 31 2005

In re Application of:
DAVID TROPP
Serial No.: 10/706,500
Filed: 12 November 2003
Title: METHOD OF IMPROVING AIRLINE
LUGGAGE INSPECTION

DECISION ON PETITION
TO MAKE SPECIAL
(COUNTERING TERRORISM)

This is a decision on the petition filed on March 1, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(XI) in accordance with 37 CFR § 1.102 (2004).

The petition to make the application special is **DENIED**.

The petition being based upon countering terrorism, the applicable rule is 37 CFR 1.102(c). Under 1.102(c), no fee is required, but a statement explaining how the invention materially contributes to countering terrorism is necessary.

In the USPTO's final rule amending 37 CFR 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether a invention qualified as "materially...countering terrorism":

The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...

Applicants are reminded that any identification of a basis for requesting special status and a statement of compliance with the

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technology specific requirement for special status must be based upon a good faith belief that the invention in fact qualifies for special status. see §§ 1.56 and 10.18...

Comment 65: The Office has received internal comments expressing concern that some applicants may view the lack of a petition fee as an inducement to file petitions where the nexus between the invention and the countering of terrorism is "strained."

Response: The comment has been adopted in part. The discussion of the rule amendment has focused on the need for applicants to recognize the "material" aspect of the claimed invention's relationship to countering terrorism, which will be further addressed in an MPEP revision. In view of such discussion, applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism.

69 Fed. Reg. 56382, 56511 (Sept. 21, 2004).

Applicant's statement alleged that the invention concerned improved airline security through the use of locks having a master key which would reduce the cutting of locks by airline security, thereby reducing the amount of obviously unlocked luggage that can be a potential security hazard.

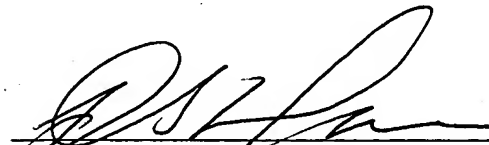
Applicant's claims are directed towards a method of making certain locks available for sale, marketing those locks, and action of a luggage screening entity under a prior agreement. Applying the standards evidenced in the administrative history of the Rule, the invention appears to be principally directed towards a business model concerning a sanctioned combination lock and a restrictedly distributed master key, with application in a baggage handling system. The main benefit appears to be prevention of theft or loss of items.

The counter-terrorism aspect appears to consist only of the secure locking of luggage after the luggage has been searched and verified safe, and only while within the already secured baggage handling zone. Applicants allege that a terrorist who managed to sneak an explosive device into the security zone would be foiled by the fact that some bags would be locked. Even if all travelers, airports, and security agents participated in applicant's lock system, a terrorist would merely be required to supply his own bag, or alternatively, break into a bag and insert his device.

The counter-terrorism aspect of this invention appears to be minor rather than material. Classifying this invention as an anti-terrorism device does not pass the materiality bar desired by the Office. In order for the Office to concentrate its resources on inventions which will materially counter terrorist activities, inventions not possessing a direct impact on such activities will not be made special.

This application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

A handwritten signature in black ink, appearing to read 'J. Dees', is written over a horizontal line.

Jose G. Dees, Special Programs Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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